

REMARKS

In the Office Action issued on January 2, 2009, the Examiner:

rejected Claim 37 under 35 U.S.C. §103(a) as being rendered obvious by United States Patent Application Publication No. 2003/0023303 (Palmaz) or, in the alternative, by Palmaz in view of United States Patent Application Publication No. 2008/0125860 (Webler).

The Applicants have fully considered the Office Action and cited references and submit this Reply and Amendment in response to the Examiner's action. Reconsideration of the application for patent is requested.

Amendments to the claims

The Applicants have herein amended independent claim 37 to more particularly point out and distinctly claim that which the Applicants regard as their invention for this particular claim. Specifically, claim 37 has been amended to clarify the location of the orifice and leaflet structure of the valve prosthesis and to further clarify the steps of determining the orientation of the orifice and verifying the determined orientation.

All of the amendments to claim 37 are fully supported by the application as originally filed; no new matter has been introduced. Exemplary support is found in paragraphs [0056], [0057], and [0058], and in Figures 20, 21, and 23.

Rejections of the claims under 103

In the subject Office action, the Examiner acknowledges that "Palmaz is silent on teaching that the imaging can be used to predict or control the delivery approach of the device, despite the fact that such properties of radiopaque implantable devices are well-known in the art."

To cure this defect of Palmaz, the Examiner asserts Webler as teaching "using visualization techniques and imaging techniques known in the art to assist

device deliver [sic.], para 0117, including the orientation of the catheter 200, the device itself, the sheath 117 and the like...”

The applicants respectfully assert that neither Palmaz nor Webler, taken alone or in combination, teach or suggest each and every limitation of claim 37 as amended herein. As a result, these references, again taken alone or combination, fail to establish a prima facie case of obviousness.

For example, neither reference teaches or suggests the following steps:

determining the orientation of the orifice within the delivery apparatus relative to at least one of the valve prosthesis and the delivery apparatus using the determined location of the imageable structure; and

verifying that the determined orientation of the orifice is indicative of a delivery approach specified by indicia located on at least one of the delivery apparatus, the valve prosthesis, and the packaging material thereof;

Furthermore, the Examiner has not provided any additional reference supporting the assertion that “One of ordinary skill in the art would know that a radiopaque marker or stent element could assist in determining a delivery approach, or determine the orientation....”

For at least these reasons, the Applicants respectfully assert that the rejections of claim 37 are improper and should be withdrawn.

CONCLUSION

The Applicants have fully responded to the rejections listed by the Examiner in the January 2, 2009 Office Action. A Notice of Allowability relating to all claims currently under consideration is appropriate and respectfully requested by the Applicants.

Should the Examiner have any questions regarding this Reply and

Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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